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# PUBLIC HEALTH REPORTS

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## COURT DECISIONS RELATING TO PUBLIC HEALTH.

### A RÉSUMÉ OF RECENT JUDICIAL OPINIONS ON MATTERS AFFECTING PUBLIC HEALTH ADMINISTRATION.

The following is a brief résumé of recent opinions rendered by judges in Federal and State courts on subjects which are of special interest to persons engaged in public-health work:

#### Occupational Diseases and Workmen's Compensation Laws.

The Supreme Judicial Court of Massachusetts rendered a number of decisions holding that workmen (or, in case of death, their dependents) were entitled to compensation under the Massachusetts workmen's compensation law, when the injury for which recovery was sought resulted from industrial diseases and not from "accidents" in the usual acceptance of that term.

In one of these cases it was held that blindness resulting from an acute attack of optic neuritis induced by poisonous coal-tar gases is a "personal injury arising out of and in the course of" employment within the meaning of the Massachusetts law providing for compensation for injuries to workmen. (Public Health Reports, June 12, 1914, p. 1583).

In the next case where this principle was involved the court held that under the workmen's compensation act of Massachusetts the term "personal injury" is not limited to injuries caused by external violence, physical force, or as the result of "accidents" in the sense in which that word is commonly used, but under the statute is to be given a much broader and more liberal meaning, and includes any bodily injury. It includes any injury or disease which arises out of and in the course of the employment and causes incapacity for work. Lead poisoning, according to the Massachusetts act, is therefore a "personal injury," if incurred by the employee during the course of his employment. (Public Health Reports, July 3, 1914, p. 1781.)

A third decision was to the same effect. A cook employed on a lighter was suffering from valvular disease of the heart. The disease was aggravated by his exertions in saving his personal effects when the lighter sank, and he died soon after. The industrial accident

board found that the death of the employee arose out of and in the course of his employment and the supreme court supported this view. (Public Health Reports, May 14, 1915, p. 1455.)

The Supreme Court of the State of Michigan, on the contrary, decided that occupational diseases were not included within the provisions of the Michigan compensation act. The law differs somewhat from the Massachusetts law, and the justice who wrote the opinion said: "It was not the intention of the legislature to provide compensation for industrial or occupational diseases, but for injuries arising from accidents alone." In reversing an award made by the industrial accident board of the State to the widow of an employee who died as the result of red-lead poisoning, the supreme court pointed out that if it had been the intention of the legislature to include occupational diseases, the clause would have been unconstitutional, since the title refers merely to "accidental" deaths and injuries and Michigan has a constitutional provision requiring the title of any law fully to express the object of the law. (Public Health Reports, Nov. 6, 1914, p. 2999.)

#### Venereal Diseases and the Regulation of Marriage.

The Wisconsin "eugenics law," which took effect January 1, 1914, excited much comment. The law requires each male applicant for a marriage license to secure a physician's certificate that he is free from venereal diseases. The decision of the Wisconsin Supreme Court upholding this law may be important, as it establishes a precedent which may serve as a guide in framing other laws intended to prevent the spread of venereal disease or to safeguard marriage.

So significant is the Wisconsin decision that a summary of it follows: The power of the State to control and regulate by reasonable laws the marriage relation and to prevent the contracting of marriage by persons afflicted with loathsome or hereditary diseases, which are liable either to be transmitted to the wife or inherited by the offspring, or both, must on principle be regarded as undeniable. When the legislature passes a constitutional law that law establishes public policy upon the subjects covered by it, and that policy is not open to question by the courts. Legislation requiring a certificate of health from males before a marriage license is issued and making no such requirement as to females is not unreasonable nor so discriminatory as to render the law unconstitutional. Under a law requiring a certificate from a physician that a "person is free from acquired venereal diseases so nearly as can be determined by physical examination and by the application of recognized clinical and laboratory tests of scientific search," the tests referred to are the tests recognized and used by the persons who are to make them, and it is not necessary for the

physician to apply the Wassermann test. This test is elaborate and could not be performed for the prescribed fee of \$3. (Public Health Reports, Sept. 11, 1914, p. 2391.)

#### **Owners of Tenements Required to Furnish Garbage Cans.**

The Wisconsin Supreme Court also upheld a law requiring owners of apartment houses, tenement houses, and lodging or boarding houses to furnish suitable covered receptacles for garbage, ashes, and refuse. The court declared that the State in the exercise of its police power had the right to pass reasonable health regulations, and that it was only where the power to regulate had been clearly abused that courts would declare the manner of using this power unconstitutional. The court also said that one provision of a law, which would be valid if left standing alone, should not be held to be void because some other provision of the same law, dealing with a different subject, may be invalid. (Public Health Reports, Sept. 18, 1914, p. 2455.)

#### **Meat-Inspection—City Ordinances Valid.**

City ordinances requiring the inspection of meat which is to be sold in the cities adopting the ordinances were held valid by the courts of New Jersey and Maine. In the former case it was held that the fact that the plaintiff held a license from the State board of health authorizing him to slaughter animals did not authorize him to sell the meat from those animals in the city without complying with the city ordinance. The ordinance held valid provided that meat sold in the city must be examined by an inspector before and after slaughter. The Maine ordinance, also upheld by the supreme court of that State, requires the inspection of carcasses when the meat is to be sold. (Public Health Reports, Aug. 14, 1914, p. 2149; Sept. 18, 1914, p. 2456.)

#### **Physicians' Services During Epidemics—Compensation.**

The Supreme Court of Nebraska rendered two decisions holding that during epidemics physicians acting under orders from the State board of health or county boards of health are entitled to extra compensation for unusual services. (Public Health Reports, Aug. 14, 1914, pp. 2151 and 2153.)

#### **Habit-forming Drugs—Sale of.**

The Georgia Court of Appeals held that testimony of cocaine users that the drug had been purchased from the defendant on several occasions is sufficient to sustain a verdict of guilty which was rendered by the jury, although the analysis of a sample purchased for the purpose of securing evidence failed to show any trace of cocaine.

The court declared that there was no hard and fast rule requiring that the nature of a drug should be proved by chemical analysis and not otherwise. (Public Health Reports, Aug. 14, 1914, p. 2154.)

Another decision concerning habit-forming drugs was made by the Kentucky Court of Appeals, which held that in an indictment for violation of a statute which prohibits the sale of "opium or its alkaloidal salts or their derivatives" it is sufficient to charge that the defendant sold "morphine." According to the court, the Kentucky law of 1913 prohibiting the sale of opium or its alkaloidal salts or their derivatives for any purpose other than for "legitimate use" is sufficiently definite to be enforceable and valid. (Public Health Reports, Jan. 1, 1915, p. 53.)

#### **Tuberculin Tests of Dairy Cows.**

That the requirement that the cows used in dairy business, where milk is sold generally to the people, should be inspected as to their health twice during the year does not violate the constitution of Mississippi nor section 1 of the fourteenth amendment to the Federal Constitution was the view in a decision handed down by the Supreme Court of Mississippi during the year. The court also declared that the purpose of such a regulation was to prevent the spread of disease among human beings, and that therefore its promulgation and enforcement by the State board of health, rather than by the live-stock sanitary board, was proper. (Public Health Reports, Apr. 9, 1915, p. 1111.)

#### **Ant Poison—Sale of.**

The California act of 1913 relative to the sale of ant poison was construed by the California District Court of Appeals, Second District, as prohibiting the sale of ant poison containing arsenic except by registered pharmacists. In one section the act included ant poison among articles which could be sold by grocers and dealers generally without restriction, but in another section the sale of ant poison containing arsenic or certain other poisons was limited to licensed pharmacists. (Public Health Reports, June 18, 1915, p. 1851.)

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### **ESSENTIALS OF SWIMMING-POOL SANITATION.<sup>1</sup>**

By WALLACE A. MANHEIMER, Ph. D., Department of Bacteriology, Columbia University.

Swimming pools in the United States are growing enormously in number and popularity. Ninety-nine large municipalities (1) have established them, and the number is on the increase. The educa-

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<sup>1</sup> Read before the American Association to Promote Hygiene and Public Baths, City Hall, New York City, May 15, 1915.